

AMENDED IN ASSEMBLY MAY 8, 2003  
AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

No. 73

Introduced by Assembly Member Lowenthal

December 19, 2002

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An act to add Section 4003 to the Financial Code, relating to unsolicited checks.

### LEGISLATIVE COUNSEL'S DIGEST

AB 73, as amended, Lowenthal. Unsolicited checks: ~~liability.~~

Existing law regulates various practices of charge card issuers, financial institutions, and other lenders, as specified.

This bill would prohibit a solicitation for a consumer loan or credit through the use of an unsolicited check, unsolicited convenience check, or other unsolicited negotiable instrument sent by a charge card issuer, financial institution, or other lender to a consumer who resides in this state unless the consumer is provided a ~~specified notice advising~~ *mechanism that allows the consumer that he or she may to elect to not receive the unsolicited checks, unsolicited convenience checks, or other unsolicited negotiable instruments in the future. The bill would make the charge card issuer, financial institution, or lender, and not the consumer, liable for a violation of the bill in the amount of the check or other instrument and any nonsufficient funds fees.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4003 is added to the Financial Code, to read:

4003. (a) A solicitation for a consumer loan or credit may not be made through the use of an unsolicited check, unsolicited convenience check, or other unsolicited negotiable instrument sent by a charge card issuer, financial institution, or other lender to a consumer who resides in this state, unless the charge card issuer, financial institution, or other lender provides the consumer with a ~~notice described in subdivision (e)~~ *mechanism* that allows the consumer to choose to not receive ~~the unsolicited check checks, unsolicited convenience check checks, or other unsolicited negotiable instrument instruments.~~

(b) ~~The notice specified in subdivision (e) shall be provided to the consumer with each solicitation of an unsolicited check, unsolicited convenience check, or other unsolicited negotiable instrument. Additionally the notice specified in subdivision (e) shall be provided to each existing customer of a charge card issuer, financial institution, or other lender, before or with the very first solicitation of an unsolicited check, unsolicited convenience check, or other unsolicited negotiable instrument. Each card issuer, financial institution, or other lender shall provide the notice specified in subdivision (e) on each application for a loan or credit if the financial institution sends unsolicited negotiable instruments to consumers.~~

(c) ~~Each unsolicited check, unsolicited convenience check, or other unsolicited negotiable instrument shall contain a clear and conspicuous notice to consumers advising them that they may elect to not receive the negotiable instruments in the future. The notice shall provide the consumer with a method for electing to not receive the negotiable instruments, and shall be printed in boldface uppercase letters in a font size at least equal to the font size used in the solicitation.~~

(d) ~~For purposes of this section, “unsolicited check, unsolicited convenience check, or an unsolicited negotiable instrument” does not include a check or instrument that is requested or authorized by a consumer through an application or other communication prior to receiving the check or instrument.~~

1     ~~(c) If a charge card issuer, financial institution, or other lender~~  
2     ~~includes an unsolicited check or other negotiable instrument in a~~  
3     ~~solicitation to a consumer for a loan or credit that the consumer has~~  
4     ~~elected to not receive, in violation of this section, the charge card~~  
5     ~~issuer, financial institution, or lender, and not the consumer, shall~~  
6     ~~be liable for the amount of the check or other instrument and any~~  
7     ~~nonsufficient funds fees.~~

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